



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 19 1999

OFFICE OF
CIVIL RIGHTS

RETURN RECEIPT REQUESTED

IN REPLY REFER TO:

Elizabeth Teel, Supervising Attorney
Tulane Environmental Law Clinic
6329 Freret Street
New Orleans, Louisiana 70118-6231

EPA File No: 3R-96-R6

Re: ACCEPTANCE OF COMPLAINT FOR INVESTIGATION

Dear Ms. Teel:

This letter is to advise you that the Office of Civil Rights (OCR) is accepting for investigation a complaint dated May 22, 1996, and filed on May 30, 1996, by your client, the Oakville Community Action Group, pursuant to Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d *et seq.* and the U.S. Environmental Protection Agency's (EPA) implementing regulations at 40 C.F.R. Part 7. The allegations contained in the complaint and subsequent correspondence to OCR, state that the Louisiana Department of Environmental Quality's (LDEQ) actions and inactions relative to the landfill, waste transfer station, and proposed incinerator owned by Industrial Pipe, Inc. and located in Plaquemines Parish, disproportionately impact the nearby minority community. More specifically, the complaint and subsequent correspondence allege that:

(1) certain aspects of LDEQ's permit issuance process for the Industrial Pipe facility have been discriminatory; for example, on May 6, 1996 and March 10, 1997, LDEQ allegedly elected to forgo public comment and a public hearing on extensions of air permits for Industrial Pipe notwithstanding the community's prior expressions of concern, Letter from Andree Renee Jacques, TELC, to Herman Robinson, LDEQ, pages 1, 3 (Sept. 11, 1996); Letter from M. Madeleine Boshart & Andree R. Jacques, TELC, to Clarice Gaylord, OCR & Shirley Augurson, EPA Region VI, pages 4-5 (Apr. 21, 1997); in addition, LDEQ allegedly allowed Industrial Pipe to unlawfully extend its air permit on May 6, 1996, although the permit had expired earlier, Letter from Jacques, page 2 (Sept. 11, 1996);

(2) the issuance of solid waste and air permits by LDEQ for the Industrial Pipe facility has lead to discriminatory effects including "horrible odors, toxic fumes, underground

fires, barge fires, pests, dust, traffic problems, [and] damage to their homes," Letter from Percy Johnson, Oakville Community Action Group, to Dan Rondeau, OCR, et al., page 1 (May 22, 1996); and

(3) the lack of enforcement by LDEQ against the Industrial Pipe facility has also lead to discriminatory effects, such as those listed above, Letter from Boshart & Jacques, page 3 (Apr. 21, 1997).

Under Title VI of the Civil Rights Act of 1964, a recipient of federal financial assistance may not discriminate on the basis of race, color, or national origin. Pursuant to EPA's Title VI administrative regulations, OCR conducts a preliminary review of Title VI complaints for acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). A complaint should meet the jurisdictional requirements as described in EPA's Title VI regulations and the criteria outlined in EPA's *Interim Guidance for Investigating Title VI Administrative Complaints Challenging Permits* issued on February 4, 1998. First, it must be in writing, should be signed and provide an avenue for contact. Second, it must describe alleged discriminatory acts that, if proven true, may violate EPA's Title VI regulations. Third, it must be timely filed. Under EPA's Title VI regulations a complaint must be filed within 180 calendar days of the alleged discriminatory act. 40 C.F.R. § 7.120(b)(2). Fourth, it should identify an EPA recipient that allegedly committed a discriminatory act.

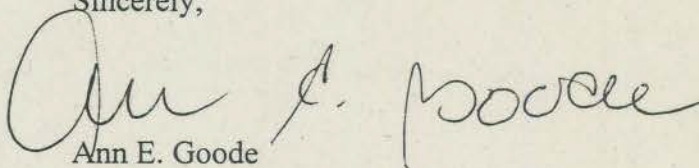
The complaint is in writing, is signed, and provides an avenue for contact. It also describes alleged discriminatory acts that, if proven true, may violate EPA's Title VI regulations. Further, it identifies an EPA recipient that allegedly committed a discriminatory act.

In addition, it was timely filed. The complaint was filed with OCR on May 30, 1996. According to subsequent correspondence, LDEQ issued a permit modification on May 6, 1996, which granted an extension to Permit No. 2240-00047-01 for the Industrial Pipe facility. Letter from Jacques, pages 1, 3 (Sept. 11, 1996). The allegedly discriminatory act, which was the May 6, 1996 permit modification, occurred well within 180 days of the filing of the complaint. Moreover, a supplement to the complaint alleges that on March 3, 1997, LDEQ issued another permit modification, which granted an extension to Industrial Pipe's Permit No. 2240-00047-02. Letter from Boshart & Jacques, page 4 (Apr. 21, 1997).

We will attempt to resolve the complaint through informal means, if possible. 40 C.F.R. § 7.120(d)(2). Pursuant to our regulations, OCR has requested that LDEQ provide a written submission responding to, rebutting, or denying the allegations raised in the complaint. 40 C.F.R. § 7.120(d)(1).

If you have any questions, please feel free to contact Mr. Mirza P. Baig of my office at (202) 260-3018 or at the above address.

Sincerely,


Ann E. Goode
Director

cc: Percy J. Johnson, President
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Belle Chasse, Louisiana 70037

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